

MINUTES
Texas Board of Health Meeting
February 26-27, 2003

The February 26, 2003, meeting of the Texas Board of Health (Board) was called to order at 3:07 p.m., at the Texas Department of Health (department), 1100 West 49th Street, Room M-739, Austin, Texas. George H. McCleskey, Chair, presided. A quorum was present with members, Mary E. Ceverha, M. P. A., Margo Scholin, B.S.N., M.S., J.D., and Raymond Hannigan, in attendance.

Registered Guests

Gayle Harris, Texas Medical Association
Camille D. Miller, Texas Institute for Health Policy
Shannon Ratliff, Resilient Floor Covering Institute
Ernie Schmidt, Texas Hospital Association
Joyce Sirota
Danielle Jaussaud
Beverly Williams
Amy Cass Brison, D.V.M., Animal Trustees of Austin
Mark Scott, D.V.M.
Mary Ann Sokol
Tracy Wilson, ACT NOW
Steve Delorte, ACT NOW
Roy Nessel, R.S., Wichita Falls, Texas Animal Control Association
Susan Morris, R.S., Wichita Falls Health District
Rachel Stone, San Antonio Express News
Natalie Vaneh, Thomas Street Clinic, Houston, Texas
Amy Kasprisin, D.V.M., Animal Trustees of Austin Clinics
Jan McGure, Health and Human Services Commission
Carolyn Parker, Texas Aids Network
Sylvia Cano, Representing Self; Parent of a Child with Special Health Care Needs
Mary Goodfleish, David Powell Clinic
Rhonda Fox, Children With Special Health Care Needs Advisory Committee
Rayne Fox
Raven Betances Fox
Robert Warren, M.D., Ph.D., M.P.H., Chair, Children with Special Health Care
Needs Advisory Committee
Rick Bonart, D.V.M.
Mark Cox, Texas Veterinary Medical Association
Lillie Gilligan, Glaxo-Smith-Kline
Jackie Cole, D.V.M., Galveston, Texas
Glenda Harbert, ESRP Network of Texas, Dallas
Bob Rogers, D.V.M.
Chris Copeland, Texas Veterinary Medical Association, Austin, Texas
Nancy Miertschin, Harris County Hospital District

Mr. McCleskey welcomed guests. Also in attendance at the meeting were Eduardo J. Sanchez, M.D., M.P.H., Commissioner of Health, and other key staff members of TDH.

Mr. McCleskey apologized for the delay due to the ice storm making travel difficult and announced the Executive Session will be held tomorrow, February 27, 2003.

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MS. CEVERHA, THE MINUTES OF THE JANUARY 16, 2003 TEXAS BOARD OF HEALTH MEETING WERE APPROVED.

Mr. McCleskey and Dr. Sanchez presented the Board of Health Award for 2002 which recognized the Associateship for Family Health for their commitment to exploring and implementing strategies to break down the barriers to the delivery of health services and to improving the health of all women, children and families in Texas. Ms. Debra Wanser, Associate Commissioner for Family Health, accepted the award on behalf of the Associateship. (*Attachment I*)

Texas Board of Health members and Dr. Sanchez presented a resolution to Dr. Charles E. Bell, Executive Deputy Commissioner, acknowledging his accomplishments and service during his tenure with the department. The resolution also acknowledged his leaving the department to become Deputy Commissioner for Health Services with the Texas Health and Human Services Commission. Dr. Bell accepted the resolution with heartfelt thanks to the Board and the department. (*Attachment II*)

Wanda Thompson, Ph.D., Associate Commissioner for Operational Support, spoke as the executive sponsor of the State Employee Charitable Campaign (SECC). Mr. McCleskey, Dr. Sanchez and Dr. Thompson recognized Cindy Faries, Statewide Coordinator for SECC, Public Health Regions 2/3 and 6/5, and the Texas Center for Infectious Diseases, in San Antonio, for their contributions to the campaign. Public Health Region 2/3 was presented a Texas flag donated by Representative Terry Keel for a 38% employee participation rate. The campaign set records in participation and dollars raised totaling \$109,895.76. (*Attachment III*)

Dr. Sanchez spoke regarding recent activities as Commissioner and presented the Commissioner's Report. On February 18, 2003, the department conducted a press conference to officially begin Phase I of the smallpox pre-event vaccination campaign that will vaccinate public health workers and hospital personnel who would respond in the event of a smallpox case. Dennis Perrotta, Ph.D., CIC, State Epidemiologist, was one of the first Texans to be vaccinated. Dr. Sanchez thanked Dr. Bell for his service on behalf of the department and the people of Texas. Dr. Sanchez thanked Ms. Ceverha for attending the February 19, 2003, budget proposal to the House Appropriations Subcommittee for Human Services and everyone at the department that has been a part of the budget proposal development process. Dr. Sanchez thanked Mr. McCleskey and Ms. Ceverha for their participation in the Senate Finance Committee hearing held February 24, 2003, to present the department's budget. (*Attachment IV*)

Rick Danko, Dr. P.H., Director, Office of Strategic Health Planning, presented an update on the Texas State Strategic Health Plan by stating since the December 4, 2002 meeting, twelve goals for health status and public health improvement by 2010 were adopted. The Steering Committee is currently establishing partnership workgroups for each of the twelve goals. Ms. Camille Miller, Public Health Improvement Steering Committee Member, and Executive Director, Texas Institute for Health Policy Research, spoke regarding the partnership between government and the private sector. She thanked staff and the Board for their support and Dr. Sanchez for his commitment to the public health strategic plan for the citizens of Texas. (*Attachment V*)

Dennis Perrotta, Ph.D., CIC, State Epidemiologist, presented an update on the application for supplemental funding for the Center for Disease Control and Prevention public health preparedness grant and on the Health Resources and Services Administration bioterrorism hospital preparedness program. Dr. Perrotta handed out brochures that show what the smallpox vaccination looks like at day ten and explained how this is a complex vaccination process. He thanked the Immunizations Program, Ms. Susan K. Steeg, General Counsel, and staff for their assistance with issues involving administering the vaccine. (*Attachment VI*)

Mr. James N. Elkins, Hospital Director, Texas Center for Infectious Diseases (TCID), in San Antonio, thanked Dr. Bell for his support during the seven-year duration of the hospital construction project at TCID. Mr. David McCormick, Chief, Construction Manager, Hospital Implementation Project, reported they are ready to proceed with construction of the new 75-bed TB Specialty Inpatient Facility and will request approval to proceed from the Legislative Budget Board and the Governor's Office of Budget and Planning on March 3, 2003. (*Attachment VII*)

Mr. Mark Scott, Director, Internal Audit, reported on the Peer Review, follow-up audit of TCID, purchase of goods and services pursuant to 2003 Internal Audit Plan, follow-up on Peoplesoft audit, and follow-up on the contract monitoring audit. (*Attachment VIII*)

Ms. Elaine Powell, Director, Business Improvement Office, presented an update on the activities of the Business Improvement Office. Out of 94 recommendations, 74 have been implemented in whole (53) or in part (21). The department has continued to work with the State Auditor's Office and the Sunset Advisory Commission regarding the implementation of the Business Practices Evaluation recommendations. (*Attachment IX*)

Ms. Michelle McComb, School Health Program Coordinator, presented appointments to the

School Health Advisory Committee (SHAC). (*Attachment X*)

Ms. Ceverha complimented Ms. McComb on the caliber of the applicants for this committee. In May of 2003, four additional appointments will be open for one nurse and three for agency representatives of school aged children. She requested that those not appointed today, have their applications considered for those positions available in May.

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED THE FOLLOWING APPOINTMENTS TO THE SCHOOL HEALTH ADVISORY COMMITTEE.

- STEVEN BARNETT, M.D., PHYSICIAN PROVIDING HEALTH SERVICES TO SCHOOL AGED CHILDREN, TERM EXPIRES MAY 31, 2005
- LAVERLA HAYS, R.N., REGISTERED NURSE PROVIDING SCHOOL HEALTH SERVICES, TERM EXPIRES MAY 31, 2006
- DONALD HEMBREE, O.D., CONSUMER MEMBER, TO COMPLETE A TERM WHICH EXPIRES MAY 31, 2005
- ALFONSO OBREGON, M.A.E.D., SCHOOL ADMINISTRATOR, TERM EXPIRES MAY 31, 2005

Ms. Megan Kearns, Family Planning Division, presented appointments for seven vacancies on the Family Planning Advisory Committee. (*Attachment XI*)

Ms. Ceverha asked staff to continue to consider diversity in looking for another person to fill the one consumer position for this committee.

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED THE FOLLOWING APPOINTMENTS TO THE FAMILY PLANNING ADVISORY COMMITTEE.

- AMY CAMPBELL, CONSUMER, TERM EXPIRES DECEMBER 31, 2008
- SARA CAREY, CONSUMER, TERM EXPIRES DECEMBER 31, 2006
- CAROLYN NELSON-BECKER, FAMILY PLANNING AGENCY ADMINISTRATOR, TERM EXPIRES DECEMBER 31, 2008
- GAY STOKES, TEXAS DEPARTMENT OF HUMAN SERVICES TEXAS WORKS, TERM EXPIRES DECEMBER 31, 2008
- YASMIN KHAN, PHYSICIAN OB/GYN, TERM EXPIRES DECEMBER 31, 2008
- VERONICA HOWARD, WOMEN'S HEALTH NURSE PRACTITIONER, TERM EXPIRES DECEMBER 31, 2008

Ms. Yvonne Feinleib, Program Administrator, Professional Licensing and Certification Division, presented appointments for three vacancies for the Texas Midwifery Board. (*Attachment XII*)

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED THE FOLLOWING APPOINTMENTS TO THE TEXAS MIDWIFERY BOARD.

- THALIA HUFTON, MIDWIFE, TERM EXPIRES JANUARY 31, 2009
- BARRY SCHWARTZ, OBSTETRICIAN/GYNECOLOGIST, TERM EXPIRES JANUARY 31, 2009
- SUSAN CHICK, CONSUMER, TERM EXPIRES JANUARY 31, 2009

Ms. Jacquelyn McDonald, Director, Office of the Board of Health, requested approval of the proposed rule concerning the Texas Radiation Advisory Board. The Board has been reviewed and evaluated and it was determined that it should continue in existence until September 1, 2007. (*Attachment XIII*)

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED THE PROPOSED RULE CONCERNING THE TEXAS RADIATION ADVISORY BOARD FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Ms. Jacquelyn McDonald, Director, Office of the Board of Health, requested approval of the proposed rule concerning the School Health Advisory Committee. The Committee has been reviewed and evaluated and it was determined that it should continue in existence until June 1, 2007.

(Attachment XIV)

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED THE PROPOSED RULE CONCERNING THE SCHOOL HEALTH ADVISORY COMMITTEE FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Mr. Alan Morris, Director, Toxic Substance Control Division, requested approval of proposed rules concerning the requirements for public employers (tax base-supported employers and agencies created by state law) to take actions to protect their employees from hazardous chemicals.

(Attachment XV)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED THE PROPOSED RULES CONCERNING THE REQUIREMENTS FOR PUBLIC EMPLOYERS TO TAKE ACTIONS TO PROTECT THEIR EMPLOYEES FROM HAZARDOUS CHEMICALS FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Mr. Bob Blackwell, Program Manager, Compliance & Review, Meat Safety Assurance Division, Bureau of Food and Drug Safety, requested approval of a proposed rule concerning meat and poultry inspections. *(Attachment XVI)*

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED THE PROPOSED RULE CONCERNING MEAT AND POULTRY INSPECTION FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Mr. McCleskey announced a recess at 5:00 p.m., on Wednesday, February 26, 2003.

Mr. McCleskey reconvened the meeting at 8:44 a.m., on Thursday, February 27, 2003. Other Board members in attendance were Mr. Raymond Hannigan,, Ms. Margo Scholin, Dr. Mario Anzaldua, and Ms. Mary E. Ceverha.

The Texas Board of Health entered into Executive Session concerning the employment of the Executive Deputy Commissioner, Chief Operating Officer, Chief Financial Officer, Deputy Commissioner for Programs, and Deputy Commissioner for Administration at 8:45 a.m. and concluded at 9:45 a.m. No action was taken.

Mr. McCleskey reconvened the meeting at 9:58 a.m., on Thursday, February 27, 2003. Other Board members in attendance were Mr. Raymond Hannigan, Ms. Margo Scholin, Dr. Mario Anzaldua, and Ms. Mary E. Ceverha.

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED NICK CURRY, M.D., M.P.H. AS ACTING EXECUTIVE DEPUTY COMMISSIONER.

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MS. CEVERHA, THE BOARD APPROVED MR. BEN DELGADO AS ACTING CHIEF OPERATING OFFICER.

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED MR. GARY BEGO AS ACTING DEPUTY COMMISSIONER FOR ADMINISTRATION.

Ms. Christine Cords, Program Director, Health and Facility Licensing and Compliance Division, requested approval of proposed rules concerning the regulation of end stage renal disease facilities. (*Attachment XVII*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED THE PROPOSED RULES CONCERNING THE REGULATION OF END STAGE RENAL DISEASE FACILITIES FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Mr. Monty Waters, Assistant General Counsel, requested approval of proposed rules concerning the recommendation for a J-1 visa waiver for physicians to serve in shortage areas in Texas. These rules address waivers for faculty physicians under the Education Code and non-faculty waivers that may be recommended by the department. (*Attachment XVIII*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MS SCHOLIN, THE BOARD APPROVED THE PROPOSED RULES CONCERNING THE RECOMMENDATION FOR A J-1 VISA WAIVER FOR PHYSICIANS TO SERVE IN SHORTAGE AREAS IN TEXAS FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Linda Althenhoff, D.D.S., Director, Texas Health Steps/Medical Transportation, requested approval, subject to the approval of the State Medicaid Director, of proposed amendments, new sections and repeal of rules concerning the department's Texas Health Steps medical services program. (*Attachment XIX*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED THE PROPOSED RULES, SUBJECT TO THE APPROVAL OF THE STATE MEDICAID DIRECTOR, CONCERNING THE DEPARTMENT'S TEXAS HEALTH STEPS MEDICAL SERVICES PROGRAM FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Ms. Margaret Brock, Bureau of Children's Health, requested approval, subject to the approval of the State Medicaid Director, of proposed rules concerning case management for children and pregnant women. (*Attachment XX*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MS. CEVERHA, THE BOARD APPROVED THE PROPOSED RULES, SUBJECT TO THE APPROVAL OF THE STATE MEDICAID DIRECTOR, CONCERNING CASE MANAGEMENT FOR CHILDREN AND PREGNANT WOMEN FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Jerry W. Felkner, D.D.S., M.P.H., State Dental Director, Division of Oral Health, requested approval, subject to the approval of the State Medicaid Director, of proposed rules concerning Texas Health Steps Dental Services Program. (*Attachment XXI*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED THE PROPOSED RULES, SUBJECT TO THE APPROVAL OF THE STATE MEDICAID DIRECTOR, CONCERNING THE TEXAS HEALTH STEPS DENTAL SERVICES PROGRAM FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Mr. Kirk Wiles, Director, Seafood Safety Division, Bureau of Food and Drug Safety, requested approval of final rules concerning molluscan shellfish. (*Attachment XXII*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING MOLLUSCAN SHELLFISH TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Mr. Kirk Wiles, Director, Seafood Safety Division, Bureau of Food and Drug Safety, requested approval of final rules concerning Texas crabmeat. (*Attachment XXIII*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING TEXAS CRABMEAT TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Mr. Alan Morris, Director, Toxic Substance Control Division, requested approval of final rules concerning the certification, accreditation and standards for lead-based paint activities in target housing and child-occupied facilities. (*Attachment XXIV*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING THE CERTIFICATION, ACCREDITATION AND STANDARDS FOR LEAD-BASED PAINT ACTIVITIES IN TARGET HOUSING AND CHILD-OCCUPIED FACILITIES TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Ms. Pam Kaderka, Acting Executive Director, State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments, requested approval of final rules concerning the licensure and regulation of fitters and dispensers of hearing instruments. (*Attachment XXV*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MS. CEVERHA, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING THE LICENSURE AND REGULATION OF FITTERS AND DISPENSERS OF HEARING INSTRUMENTS TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Ms. Christine Cordes, Program Director, Health and Facility Licensing and Compliance Division, requested approval of final rules concerning the regulation of birthing centers. (*Attachment XXVI*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MS. CEVERHA, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING BIRTHING CENTERS TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Mr. Alan Morris, Director, Toxic Substance Control Division, requested approval of final rules concerning the Texas Asbestos Health Protection rules. Mr. Morris addressed a late comment by stating for the record, that the term “in tact” is included in the rules as a matter of standard procedure. (*Attachment XXVII*)

ON A MOTION MADE BY MS. SCHOLIN AND SECONDED BY MS. CEVERHA, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING THE TEXAS ASBESTOS HEALTH PROTECTION ACT TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Mr. McCleskey called for discussion and recognized persons to give public comment.

Mr. Shannon Ratliff, Attorney, Bracewell and Patterson, spoke on behalf of the Resilient Floor Covering Institute. They are extremely appreciative of the professional and thoughtful consideration of their comments on the rules approved today. He requested that applicable OSHA guidance be considered in the application of these rules and that it is his understanding from Mr. Morris today that this will be included.

Mr. John Scott, Privacy Officer, requested approval of final rules concerning the privacy of health information. (*Attachment XXVIII*)

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING THE PRIVACY OF HEALTH INFORMATION TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Ms. Peggy Belcher, Bureau of Budget and Revenue, requested approval of a final rule concerning the establishment of the State Preventive Health Advisory Committee. (*Attachment XXIX*)

ON A MOTION MADE BY MS. CEVERHA AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING THE ESTABLISHMENT OF THE STATE PREVENTIVE HEALTH ADVISORY COMMITTEE TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Ms. Elaine Snow, Program Attorney, Division of Oral Health, requested approval of final rules concerning the Oral Health Improvement Services Program. (*Attachment XXX*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING THE ORAL HEALTH SERVICES IMPROVEMENT PROGRAM TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Jane Mahlow, D.V.M., M.S., Director, Zoonosis Control Division, requested final adoption of rules concerning rabies control and eradication. The modification changes the allowable frequency of rabies immunizations for dogs and cats from one year to three years except for vaccines requiring one-year intervals by license. The modifications also allow for the use of any United States Department of Agriculture approved rabies vaccine in dogs instead of requiring the use of a three-year vaccine only. Local communities or jurisdictions may continue to require annual rabies vaccinations. (*Attachment XXXI*)

A MOTION WAS MADE BY DR. ANZALDUA AND SECONDED BY MS. CEVERHATO APPROVE AN ORDER ADOPTING RULES CONCERNING RABIES CONTROL AND ERADICATION TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Mr. McCleskey called for discussion and recognized persons to give public comment.

Ms. Danielle Jaussaud, Pet Owner, spoke in support of the proposed rule change.

Ms. Beverly Williams, Pet Owner, expressed support for the change in the rules.

Ms. Joyce Sirota, Pet Owner, expressed support for the change in the rules.

Mr. Roy Nettle, Animal Control Worker and President of the Texas Animal Control Association, expressed concerns about public health and spoke against the rule change.

Amy Cass Brison, D.V.M, Animal Trustees of Austin, is in support of the change and submitted articles as part of public comment. (*Attachment XXXII*)

Jackie Cole, D.V.M., Veterinarian practicing in Galveston, Texas, spoke in favor of the final rule. She read a letter into public comment from Ms. Margaret Canaben in favor of changing the rule from one year to three years.

Bob Roger, D.V.M., Veterinarian practicing in Spring, Texas, spoke in favor of changing the rules to every three years.

Mr. Chris Copeland, General Counsel, Texas Veterinary Medical Association, spoke against the proposal for three-year vaccinations and in favor of annual vaccinations. He requested the Board consider a two-year schedule using a three-year vaccine.

Mr. McCleskey announced a recess at 11:09 a.m., on Thursday, February 27, 2003.

Mr. McCleskey reconvened the meeting at 11:22 a.m., on Thursday, February 27, 2003. Other Board members in attendance were Mr. Raymond Hannigan, Ms. Margo Scholin, Dr. Mario Anzaldúa, and Ms. Mary E. Ceverha.

Mr. McCleskey called for discussion and recognized persons to give public comment.

Rick Bonart, D.V.M., Veterinarian practicing in El Paso, spoke against the rule change because of a possible greater threat to public health.

Mark Scott, D.V.M., Veterinarian practicing in El Paso, Texas, and served as Chairman of the Texas Veterinarian Association, spoke against the rule change because it is a public health issue, not an animal issue and will cause confusion.

THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING RABIES CONTROL AND ERADICATION TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Sharilyn K. Stanley, M.D., Associate Commissioner, Disease Control and Prevention, requested approval of final rules concerning client financial eligibility requirements for the Texas HIV Medication Program. The rules are being amended to reflect a change in the client financial eligibility requirement. The amendments are necessary to ensure that the program continues to operate within budget parameters, thus ensuring the continuation of pharmaceutical assistance to low income clients living with HIV disease. (*Attachment XXXIII*)

There was discussion among Board members, Ms. Susan K. Steeg, General Counsel, Dr. Sharilyn Stanley and Dr. Sanchez regarding Board options. The proposed rules must be adopted within 180 days of their publication to become final. This time will expire before the next scheduled Board meeting on April 3, 2003. If tabled, this rule will have to start over in the rulemaking process by becoming a proposed rule to be published in the *Texas Register* for a minimum of a 30-day public comment period. A temporary hold was also discussed as an option.

Mr. McCleskey spoke for the Board by saying they want to get this resolved as soon as possible, but they also have real concerns for the citizens of Texas. They want to present the fairest approach to a difficult issue.

A MOTION WAS MADE BY DR. ANZALDUA AND SECONDED BY MS. CEVERHA TO TABLE THE RULES CONCERNING THE CLIENT FINANCIAL ELIGIBILITY REQUIREMENTS FOR THE TEXAS HIV MEDICATION PROGRAM WHILE STAFF EXPLORE OTHER OPTIONS.

Mr. McCleskey called for discussion and recognized persons to give public comment.

Mr. Tracy Wilson, State Coordinator, Aids Coalition of Texas Now, commended the Board for agreeing to table this issue. They are committed to working with the department because the ultimate responsibility will be the legislators when they request additional funding of \$34 Million.

Ms. Marcy Goodfleish, David Powell Clinic, spoke in favor of the motion to table a vote regarding the HIV Medication Program because so many people are unable to afford the medications and the lack of medications could risk spreading HIV.

THE BOARD APPROVED A MOTION TO TABLE THE RULES CONCERNING THE CLIENT FINANCIAL ELIGIBILITY REQUIREMENTS FOR THE TEXAS HIV MEDICATION PROGRAM WHILE STAFF EXPLORE OTHER OPTIONS.

Mr. McCleskey thanked Dr. Stanley, Dr. Sanchez and staff on their work with a very difficult issue on behalf of the Board and the people of the State of Texas.

Mr. McCleskey announced a recess for lunch at 11:47 a.m., on Thursday, February 27, 2003.

Mr. McCleskey reconvened the meeting at 12:20 a.m., on Thursday, February 27, 2003. Other Board members in attendance were Mr. Raymond Hannigan, Ms. Margo Scholin, Dr. Mario Anzaldua, and Ms. Mary E. Ceverha.

Ms. Jan Melton-Kissel, Chief, Bureau of Children's Health, requested final adoption of amended rules and a new rule concerning the Children with Special Health Care Needs (CSHCN) Services Program. The amendments and new rule were necessary to establish a process for addressing annual budget alignment and to continue the existence of the CSHCN Advisory Committee. The final rule will extend the committee's existence to January 2, 2007. (*Attachment XXXIV*)

Robert W. Warren, M.D., Ph.D., M.P.H., Chair, CSHCN Advisory Committee, stated two concerns: 1. Add a statement where urgent-need children will be taken care of immediately and not put on a waiting list, and 2. Children should be given higher priority than adults. Despite these concerns, overall the Committee unanimously endorses the final rules as changed by the draft addendum, and recommends Board approval. He also submitted his comments in writing. (*Attachment XXXV*)

Ms. Rhonda Fox, thanked the Board for their support and asked the Board to walk a little further to help all our children.

Ms. Sylvia Cano, Social Worker in San Antonio, has a son with a rare disorder. If he did not have access to services, he would not be where he is today or may not be here today. These children cannot wait. We need to commit that all children with disabilities have their needs met and to serve all children.

Ms. Mary Ann Sokol, Executive Director, Any Baby Can, thanked the Board for their help. She stated these children are fragile and families do not have the equipment or supplies that they need to care for their children. Many children die because they do not have the preventive, protective care they need. She also thanked the staff of the CSHCN Program and asked them to make sure these children get off of the waiting list so they get care as soon as possible.

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MS. SCHOLIN, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING THE CHILDREN WITH SPECIAL HEALTH CARE NEEDS SERVICES PROGRAM TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Mr. McCleskey said the Board has been struggling with issues with CSHCN staff and the

advisory committee for a number of months. He thanked Dr. Sanchez, Debra Stabeno, Debra Wanser and Jann Melton-Kissel for their help in working with the advisory committee on these rules. He also thanked Dr. Warren and the advisory committee for their continued patience and help in working on these rules. Ms. Ceverha thanked Dr. Warren for his leadership and for raising the level of awareness of the needs of these children at this critical time. She commended him for a remarkable job by being a great voice and a great leader. Ms. Scholin thanked everyone for their dedication to help the children in Texas.

Janet D. Lawson, M.D., Acting Chief, Bureau of HIV and STD Prevention, requested approval of final rules concerning sexually transmitted diseases including acquired immunodeficiency syndrome (AIDS) and human immunodeficiency virus (HIV). The rules are being amended to reflect minor editorial changes to clarify and improve the accuracy and comprehension of the sections. *(Attachment XXXVI)*

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED AN ORDER ADOPTING RULES CONCERNING SEXUALLY TRANSMITTED DISEASES INCLUDING ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS) AND HUMAN IMMUNODEFICIENCY VIRUS (HIV) TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

There were no public comments.

Mr. McCleskey announced the next meeting of the Texas Board of Health will be held on Thursday, April 3, 2003, in Austin.

The meeting was adjourned on Thursday, February 27, 2003, at 1:30 p.m.

APPROVED: April 4, 2003

George H. McCleskey, Chair
Texas Board of Health

Date